

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:
Erin Owens
Debtor

Case No.10-53504
Chapter 13
Honorable Walter Shapero

Erin Owens
Plaintiff

Adv. Proc. No.10- -

v.

Bank of America
Defendant

**COMPLAINT TO AVOID SECURITY INTEREST IN REAL PROPERTY
LOCATED AT 129 BELL RD, YPSILANTI MI 48197**

Debtor, by and through her attorney, John Robert Keyes, now comes and states the following complaint:

1. Plaintiff brings this complaint pursuant to 11 U.S.C. §506, and submits herself to jurisdiction of this Court through Fed. R. Bankr. P §7001 and §7004.
2. Debtor filed a Voluntary Chapter 13 petition with this court on April 23, 2010.
3. The Debtor has two separate mortgages on her principle residence located at 129 Bell Rd, Ypsilanti MI 48197 located in Washtenaw County and more particularly described as.

City of Ypsilanti, County of Washtenaw, State of Michigan:

Lots 21 & 22, PLAN OF CLARKSVILLE, according to the recorded plat thereof,
Washtenaw County Records.

Tax Id: 11-11-37-100-006

4. The first mortgage is held by Bank of America, and has an outstanding balance of \$103,862 according to the stated balance on the Debtor's credit report at the time of filing. Said first mortgage is recorded at the Washtenaw County Register of Deeds in Liber 4458 Page 471. The second mortgage is held by Bank of America and has a

balance of \$41,182 according to the Debtor's credit report. Said second mortgage is recorded at the Washtenaw County Register of Deeds in Liber 4515 Page 629.

5. The property has a current value of \$90,000.00 according to Debtor's schedules and a current market analysis.
6. In order for Defendant's mortgage to be secured by even \$1, the property would have to be of value in excess of the first mortgage and any outstanding property taxes, which is no less than \$103,862.
7. Debtor is entitled to avoid the claimed security interest of Bank of America as to the second mortgage on the Debtor's property under the provisions of 11 U.S.C. §506, as the Defendant's second mortgage lien is not an "allowed secured claim" as defined by the Code and applicable case law.
8. As such, the Defendant does not have a valid lien or security interest as to the second mortgage on the property at 129 Bell Rd, Ypsilanti MI 48197 and should therefore be treated as a general unsecured creditor whose claim will be paid as a Class 8 creditor.
9. The interests of good faith and justice support the requested relief.

WHEREFORE, Debtor requests that this Honorable court grant the requested relief to avoid Bank of America's security interest and lien in the real estate located at 129 Bell Rd, Ypsilanti MI 48197 as it relates to the mortgage recorded at Liber 4515, Page 629, Washtenaw County Records.

Respectfully Submitted,

Dated:

/s/ John Robert Keyes
Robert Keyes P68856
Robert Keyes Law
300 North Huron Street
Ypsilanti, MI 48197
(734) 662-1590
robert@robertkeyeslaw.com